

RBS and RUS, USDA

§ 4284.401

§§ 4279.188—4279.199 [Reserved]

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The information collection requirements contained in this regulation have been approved by OMB and have been assigned OMB control number 0575-0170. Public reporting burden for this collection of information is estimated to vary from 30 minutes to 54 hours per response, with an average of 27 hours per response, including time for reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Department of Agriculture, Clearance Officer, OIRM, Stop 7630, Washington, DC 20250. You are not required to respond to this collection of information unless it displays a currently valid OMB control number.

PART 4284—GRANTS

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AUTHORITY: 5 U.S.C. 301; 7 U.S.C. 1989; 16 U.S.C. 1005.

SOURCE: 58 FR 5566, Jan. 22, 1993, unless otherwise noted.

Subparts A—D—[Reserved]

Subpart E—Section 306C WWD Loans and Grants

§ 4284.401 General.

(a) This subpart outlines Rural Development Administration (RDA) or its successor agency policies and procedures for making Water and Waste Disposal (WWD) loans and grants authorized under section 306(C) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(c)), as amended.

(b) RDA or its successor agency officials will maintain liaison with officials of other Federal, State, regional, and local development agencies to coordinate related programs to achieve rural development objectives.

(c) RDA or its successor agency officials shall cooperate with appropriate State agencies in making loans and/or grants that support State strategies for rural area development.

(d) Funds allocated in accordance with this subpart will be considered for use by Indian Tribes within the State

regardless of whether State development strategies include Indian reservations within the State's boundaries. Indians residing on such reservations must have an equal opportunity to participate in this program.

(e) Federal statutes provide for extending RDA or its successor agency Financial programs without regard to race, color, religion, sex, national origin, marital status, age, or physical/mental handicap (provided the participant possesses the capacity to enter into legal contracts).

§ 4284.402 [Reserved]

§ 4284.403 Objective.

The objective of the section 306(C) WWD Loans and Grants program is to provide water and waste disposal facilities and services to low-income rural communities whose residents face significant health risks.

§ 4284.404 Definitions.

Applicant. Entity that receives the RDA or its successor agency loan or grant under this subpart. The entities can be public bodies such as municipalities, counties, districts, authorities, or other political subdivisions of a State, and organizations operated on a not-for-profit basis such as associations, cooperatives, private corporations, or Indian tribes on Federal and State reservations, and other Federally recognized Indian tribes.

Colonia. Any identifiable community designated in writing by the State or county in which it is located; determined to be a colonia on the basis of objective criteria including lack of potable water supply, lack of adequate sewage systems, and lack of decent, safe, and sanitary housing, inadequate roads and drainage; and existed and was generally recognized as a colonia before October 1, 1989.

Cooperative. A cooperative formed specifically for the purpose of the installation, expansion, improvement, or operation of water supply or waste disposal facilities or systems.

Individual. Recipient of a loan or grant through the applicant to facilitate use of the applicant's water and/or waste disposal system.

Rural areas. Include unincorporated areas and any city or town with a population not in excess of 10,000 inhabitants according to the most recent decennial census of the United States. They can be located in any of the 50 States, the Commonwealth of Puerto Rico, the Western Pacific Territories, Marshall Islands, Federated States of Micronesia, Republic of Palau, and the U.S. Virgin Islands.

§§ 4284.405—4284.410 [Reserved]

§ 4284.411 Making, processing, and servicing loans and grants.

Unless specifically modified by this subpart, loans and/or grants will be made, processed, and serviced in accordance with subparts A and H of part 1942 of this title, respectively.

§ 4284.412 Eligibility.

(a) The provisions of paragraphs (a) (1) and (2) of this section do not apply to a rural area recognized as a colonia. Otherwise, the facility financed under this subpart must provide water and/or waste disposal services to rural areas of a county where, on the date the preapplication is received by RDA or its successor agency, the:

(1) Per capita income of the residents is not more than 70 percent of the most recent national average per capita income, as determined by the Department of Commerce; and

(2) Unemployment rate of the residents is not less than 125 percent of the most recent national average unemployment rate, as determined by the Bureau of Labor Statistics.

(b) Residents of the rural area to be served must face significant health risks due to the fact that a significant proportion of the community's residents do not have access to, or are not served by, adequate, affordable, water and/or waste disposal systems. The file should contain documentation to support this determination.

§ 4284.413 Project priority.

The following paragraphs indicate items and conditions which must be considered in selecting preapplications for further development. When ranking

eligible preapplications for consideration for limited funds, RDA or its successor agency officials must consider the priority items met by each preapplication and the degree to which those priorities are met.

(a) *Preapplications.* The preapplication and supporting information submitted with it will be used to determine applicant eligibility and the proposed project's priority for available funds. Applicants determined ineligible will be advised of their appeal rights in accordance with subpart B of part 1900 of this title.

(b) *Regional Office review.* All preapplications will be reviewed and scored for funding priority at each Regional Office using Exhibit B of this subpart (available in any RDA or its successor agency office). Funds will be requested from the National Office, Attention: Director, Water and Waste Disposal Division, using Exhibit C of this subpart (available in any RDA or its successor agency office). Eligible applicants that cannot be funded should be advised that funds are not available and advised of their appeal rights as set forth in § 1900.55(a) of subpart B of part 1900 of this title.

(c) *National Office.* The National Office will allocate funds on a project-by-project basis as requests are received. If the amount of funds requested exceeds the amount of funds available, the total project score will be used to select projects for funding. The RDA or its successor agency Administrator may assign up to 35 additional points that will be considered in the total points for items such as geographic distribution of funds, severity of health risks, etc.

(d) *Selection priorities.* The priorities described below will be used to rate preapplications and in selecting projects for funding. Points will be distributed as indicated in paragraphs (d)(1) through (d)(6) of this section and will be used in selecting projects for funding. A copy of Exhibit B of this subpart (available in any RDA or its successor agency office), used to rate applications, should be placed in the case file for future reference.

(1) *Population.* The proposed project will serve an area with a rural population:

- (i) Not in excess of 1,500—30 points.
- (ii) More than 1,500 and not in excess of 3,000—20 points.
- (iii) More than 3,000 and not in excess of 5,500—10 points.

(2) *Income.* The median household income of population to be served by the proposed project is:

- (i) Not in excess of 50 percent of the statewide nonmetropolitan median household income—30 points.
- (ii) More than 50 percent and not in excess of 60 percent of the statewide nonmetropolitan median household income—20 points.
- (iii) More than 60 percent and not in excess of 70 percent of the statewide nonmetropolitan median household income—10 points.

(3) *Joint financing.* The amount of joint financing committed to the proposed project is:

- (i) Twenty percent or more private, local, or State funds except Federal funds channeled through a State agency—10 points.
- (ii) Five to 19 percent private, local, or State funds except Federal funds channeled through a State agency—5 points.

(4) *Truly rural.* The proposed project is located in a truly rural area as defined in § 1942.17(c) of subpart A of part 1942 of this title—10 points.

(5) *Colonia.* (See definition in § 4284.404 of this subpart.) The proposed project will provide water and/or waste disposal services to the residents of a colonia—50 points.

(6) *Discretionary.* In certain cases, the RDA or its successor agency Regional Director may assign up to 15 points for items such as natural disaster, to improve compatibility/coordination between RDA's or its successor agency's and other agencies' selection systems, to assist those projects that are the most cost effective, high unemployment rate, severity of health risks, etc. A written justification must be prepared and attached to Exhibit B of this subpart (available in any RDA or its successor agency office) each time these points are assigned.

[58 FR 5566, Jan. 22, 1993, as amended at 58 FR 42639, Aug. 11, 1993]

§§ 4284.414—4284.420 [Reserved]

§ 4284.421 Use of funds.

(a) *Applicant.* Funds may be used to:

(1) Construct, enlarge, extend, or otherwise improve community water and/or waste disposal systems. Otherwise improve would include extending service lines to and/or connecting residence's plumbing to the system.

(2) Make loans and grants to individuals for extending service lines to and/or connecting residences to the applicant's system. The approval official must determine that this is a practical and economical method of connecting individuals to the community water and/or waste disposal system. Loan funds can only be used for loans, and grant funds can only be used for grants.

(3) Make improvements to individual's residence when needed to allow use of the water and/or waste disposal system.

(4) Grants can be made up to 100 percent of eligible project costs.

(b) *Individuals.* Funds may be used to:

(1) Extend service lines to residence.

(2) Connect service lines to residence's plumbing.

(3) Pay reasonable charges or fees for connecting to a community water and/or waste disposal system.

(4) Pay for necessary installation of plumbing and related fixtures within dwellings lacking such facilities. This is limited to one bathtub, sink, commode, kitchen sink, water heater, and outside spigot.

(5) Construction and/or partitioning off a portion of the dwelling for a bathroom, not to exceed 4.6 square meters (48 square feet) in size.

(6) Pay reasonable costs for closing abandoned septic tanks and water wells when necessary to protect the health and safety of recipients of a grant in paragraphs (b)(1) or (b)(2) of this section and is required by local or State law.

[58 FR 5566, Jan. 22, 1993, as amended at 58 FR 42639, Aug. 11, 1993]

§§ 4284.422—4284.430 [Reserved]

§ 4284.431 Rates.

(a) Applicant loans will bear interest at the rate of 5 percent per annum.

(b) Individual loans will bear interest at the rate of:

(1) Five percent per annum, or

(2) The Federal Financing Bank rate for loans of a similar term at the time of RDA or its successor agency loan approval, whichever is less.

§§ 4284.432—4284.440 [Reserved]

§ 4284.441 Individual loans and grants.

(a) The amount of loan and grant funds approved by RDA or its successor agency will be based on the need shown in the application and an implementation plan submitted by the applicant. The implementation plan will include such things as: purpose, how funds will be used, proposed application process, construction requirements, control and disbursement of funds, etc. The implementation plan will be attached to Exhibit A of this subpart.

(b) Exhibit A of this subpart is a Memorandum of Agreement which sets forth the procedures and regulations for making and servicing loans and grants made by applicants to individuals. The RDA or its successor agency Regional Director is authorized to enter into a Memorandum of Agreement with any applicant providing loans and/or grants to individuals. The Memorandum of Agreement can be amended to comply with State law and recommendations by the Office of General Counsel. It may also be amended to eliminate references to loans and/or grants if no loan and/or grant is involved. The RDA or its successor agency Regional Director is responsible for:

(1) Ensuring that all provisions of the Agreement are understood.

(2) Determining that the applicant has the ability to make and service loans and/or grants in the manner outlined in the Agreement.

(c) RDA or its successor agency funds remaining after providing individual loans and/or grants will be returned to RDA or its successor agency. The funds should be disbursed to individuals within 1 year from the date water and/or waste disposal service is available to the individuals. The RDA or its successor agency Regional Director can make an exception to this 1 year requirement

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if written justification is provided by the applicant.

[58 FR 5566, Jan. 22, 1993, as amended at 58 FR 42639, Aug. 11, 1993]

§ 4284.442 Delegation of authority.

The RDA or its successor agency Regional Director is responsible for the overall implementation of the authorities contained in this subpart and may redelegate any such authority to appropriate RDA or its successor agency employees.

§ 4284.443 Guides and attachments.

Exhibit C of subpart H of part 1942 of this title (published in the FEDERAL REGISTER only) and Exhibits A, B and C of this subpart (Exhibits B and C of this subpart are available in any RDA or its successor agency office) are for use in administering loans and/or grants made under this subpart.

[58 FR 5566, Jan. 22, 1993, as amended at 58 FR 42639, Aug. 11, 1993]

§§ 4284.444—4284.499 [Reserved]

§ 4284.500 OMB control number.

The reporting and recordkeeping requirements contained in this regulation have been approved by the Office of Management and Budget and assigned OMB control number 0570-0001. Public reporting burden for this collection of information is estimated to vary from 5 to 30 hours per response with an average of 17.5 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to U.S. Department of Agriculture, Clearance Officer, OIRM, room 404-W, Washington, DC 20250; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

EXHIBIT A TO SUBPART E—MEMORANDUM OF AGREEMENT BETWEEN _____ AND THE RURAL DEVELOPMENT ADMINISTRATION (RDA) OR ITS SUCCESSOR AGENCY

This Memorandum of Agreement establishes authorities and procedures whereby the

_____, (Name of Organization), _____
(Address), _____

_____, (Phone No.), a _____ system, (enter type of system such as waste disposal, or water) hereinafter referred to as the "system," will process and service water and waste disposal loans and grants authorized under Section 306C of the Consolidated Farm and Rural Development Act, as amended, to facilitate individual's use of the system. It is agreed that the system will receive applications, process, close, and service loans or grants as provided in this agreement and the attached implementation plan. The system's files should be adequately documented to show the basis for individual loan and grant eligibility.

Effective date of this agreement: This agreement shall be effective on the date of the last signature and date hereto.

Duration of agreement: This agreement shall continue to be in effect until all loans made are collected or otherwise satisfied by the system and any loan made by RDA or its successor agency for such purpose is paid in full or otherwise satisfied.

Purpose: The system will inform individual residents that loans and/or grants will be made available to eligible users through the system. Loans and grants will only be made to users to extend service to, connect their residence to, or make improvements needed to facilitate use of the system. Regulations and guidance for loan/grant making and loan servicing are provided in this part of the agreement. The individuals must reside in a community whose residents face significant health risks due to the fact that a significant portion of the community's residents do not have access to, or are not served by, adequate, affordable, water supply systems or waste disposal facilities.

A. Loan Eligibility

Loans may be made to individuals who:

1. Are individuals who are neither eligible for, nor have received a grant under this agreement; and
2. Have an ownership interest in the dwelling to be connected to the system or improved and located in a rural area; and

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3. Have a total taxable household income of not more than 125 percent of the most recent poverty income guidelines established by Department of Health and Human Services. The household income will be based on the latest Federal income tax form or signed statement that their income is below the level required to file a Federal income tax form from all individuals residing in the household; and

4. Are unable to pay for the costs of improvements without a loan.

B. Grant Eligibility

Grants may be made to individuals who:

1. Have an ownership interest in the dwelling to be connected to the system or improved and located in a rural area; and

2. Have a total taxable household income that is below the most recent poverty income guidelines established by Department of Health and Human Services. The household income will be based on the latest Federal income tax form or signed statement that their income is below the level required to file a Federal income tax form from all individuals residing in the household; and

3. Are unable to repay a loan under paragraph A of this exhibit if funds are available.

C. Terms

1. The interest rate on loans made under this agreement will be _____ percent per annum.

2. Loan repayment terms will not exceed the RDA or its successor agency loan repayment terms.

3. Loans will be evidenced by a promissory note developed in accordance with State law by the system.

4. The loan will be collected at the same time as the regular service bill is collected for such residence. Payments of the loan will be considered as part of the service rendered to users of the service until the loan is paid or otherwise satisfied.

D. Loan/Grant Purposes

Funds may be used to:

1. Extend service lines to, or connect the dwelling's plumbing to, the system to allow use of the system.

2. Pay reasonable costs of connection fees and other charges regularly charged by the system.

3. Pay for necessary installation of plumbing and related fixtures within dwellings lacking such facilities. This is limited to one bathtub, sink, commode, kitchen sink, water heater, and outside spigot.

4. Construction and/or partitioning off a portion of the dwelling for a bathroom, not to exceed 4.6 square meters (48 square feet) in size.

5. Pay reasonable costs for closing abandoned septic tanks and water wells when

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necessary to protect the health and safety of recipients of a grant in paragraphs D.1 or D.2 of this exhibit and is required by local or State law.

E. Restrictions on Use of Funds

Funds cannot be used to:

1. Make improvements to the residence, except for the improvements authorized by paragraph D of this exhibit.

2. Pay individuals for their own labor.

F. Loan/Grant Processing

1. The system will develop its own application for processing loans and grants.

2. The system will assist individuals in completing an application and promissory note.

3. The system will provide or arrange for technical assistance, as needed, to determine improvements to be made, their costs, and that the costs are reasonable.

4. The system may contract with the individuals to do the work or arrange for the improvements to be installed by a contractor satisfactory to the system and the individual. In either case, the individual will sign a contract agreement covering the planned improvements.

G. Payment for the Work

1. The system will pay the contractor after making such inspection of the work as it deems necessary and acceptance by the individual. The agreement between the contractor and the individual must require the contractor to warrant and guarantee, for a period of 12 months from the date of completion, that the work is free from all defects due to faulty materials or workmanship, and that the contractor shall promptly make such corrections as may be necessary by reason of such defects.

2. The system will advance funds, as needed, to individuals acting as his/her own contractor, to pay for materials and labor other than labor of the individual. The system will inspect the work as it deems necessary to assure that the improvements are being installed satisfactorily.

H. Account Servicing

1. The system will follow generally acceptable accounting practices in maintaining and servicing the borrower's account during the life of the loan. Scheduled note payments will be collected with the borrower's utility service billing and be deposited in the account used to make RDA's or its successor agency's loan payment.

2. Interest on unpaid interest shall not be charged.

3. Late charges may be assessed at the option of the system on delinquent accounts.

I. Inspection of Records

The system will provide RDA or its successor agency (or other appropriate Federal agencies), at all reasonable times, access to all books and records relating to loans made under the provisions of this Agreement.

J. Personal Benefit Clause

No member of or delegate to Congress or resident commissioner shall be admitted to any share or part of this agreement or to any benefit to arise therefrom, unless it be made with a corporation for its general benefit.

K. Payment for Services

Individuals may be charged customary fees for technical services provided in determining the type and amount of improvements, obtaining cost estimates, and for inspections made to insure that the improvements have been properly completed. Loan funds may only be used for these purposes to the extent set forth in paragraph D of this exhibit. However, neither the RDA or its successor agency nor the system will pay a loan origination or packaging fee, nor will a fee be paid for servicing the account during the life of the loan.

L. Administrative Policy

1. RDA or its successor agency Regional Director will provide to the system the most recent poverty income guidelines.

2. RDA or its successor agency Regional Director will provide guidance needed by the system in carrying out this program.

3. When all funds covered by this Agreement have been disbursed by the system, the system will provide the RDA or its successor agency Regional Director a report on how the funds were used. The report will include the names of individuals that received assistance, the type of assistance (loan or grant), and the amount of assistance.

(Name) _____

(Title of System Representative) _____

Date: _____

(Name) _____

(RDA or its successor agency Regional Director) _____

Date: _____

[58 FR 5566, Jan. 22, 1993; 58 FR 12632, Mar. 5, 1993, as amended at 58 FR 42639, Aug. 11, 1993]

Subpart F—Rural Technology and Cooperative Development Grants

SOURCE: 61 FR 3782, Feb. 2, 1996, unless otherwise noted.

§ 4284.501 Purpose.

(a) This subpart outlines the Rural Business-Cooperative Service's (RBS) policies and authorizations and sets forth procedures to provide grants for technology and cooperative development in rural areas.

(b) Grants for establishing and operating centers for rural technology or cooperative development will be for the primary purpose of improving the economic condition of rural areas by promoting the development (through technological innovation, cooperative development, and adaptation of existing technology) and commercialization of new services and products that can be produced or provided in rural areas; new processes that can be utilized in the production of products in rural areas; and new enterprises or cooperatives that can add value to on-farm production through processing or marketing.

(c) Copies of all forms and Instructions referenced in this subpart are available in the RBS National Office or any RECD State Office.

§ 4284.502 Policy.

(a) The grant program will be used to assist in the economic development of rural areas.

(b) Funds allocated for use in accordance with this subpart are also to be considered for use by Native American tribes within the state regardless of whether state development strategies include Indian reservations within the state's boundaries. Native American tribes residing on such reservations must have equal opportunity along with other rural residents to participate in the benefits of these programs. This includes equal application of outreach activities of RECD servicing offices.

§ 4284.503 [Reserved]

§ 4284.504 Definitions.

Approval official. Any authorized agency official.

Center. The place established and operated by the grantee for rural technology or cooperative development.

Cooperative. An association organized to provide a specific service with open membership, equality in ownership and

control, limited return on members' capital, and equitable methods to distribute any excess earnings back to its members.

Cooperative development. The startup, expansion, or operational improvement of a cooperative which will promote the development of new services and products that can be produced or provided in rural areas, new processes that can be utilized in the production of products in rural areas, or new enterprises that can add value to on-farm production through processing or marketing. Operational improvement includes making the cooperative more efficient, better managed, etc.

Economic development. The growth of an area as evidenced by increases in total income, employment opportunities, decreased outmigration of populations, value of production, increased diversification of industry, higher labor force participation rates, increased duration of employment, higher wage levels, or gains in other measurements of economic activity, such as land values.

Nonprofit institution. Any organization or entity, including an accredited institution of higher education, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

Project. The undertaking for which funds will be used to develop or operate a technology or cooperative development center.

Public body. Any state, county, city, township, incorporated town or village, borough, authority, district, economic development authority, or Indian tribe on federal and state reservation or other federally recognized Indian tribe in rural areas.

RBS. The Rural Business-Cooperative Service, an agency of the United States Department of Agriculture, or a successor agency.

RECD. Rural Economic and Community Development mission area.

Rural and rural area. Includes all territory of a state that is not within the outer boundary of any city having a population of 50,000 or more and its immediately adjacent urbanized and urbanizing areas with a population density of more than 100 persons per square mile, as determined by the Sec-

retary of Agriculture according to the latest decennial census of the United States.

Servicing office. Any RECD State Office or successor office.

Small business. A business which does not exceed the maximum number of employees or annual receipts allowed for a concern (including its affiliates) to be considered small according to the established size standards for Small Business Administration (SBA) assistance as set forth in §121.601, 13 CFR, part 121. The business may be operated on a profit or nonprofit basis but must rely primarily on revenues of the business for operation rather than outside support.

State. Any of the 50 States, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of Palau, the Federated States of Micronesia, and the Republic of the Marshall Islands.

Subcenter. A unit of a center acting under the same direction as and having a purpose consistent with that of the center.

Technology. The application of science to industrial or commercial objectives. The entire body of methods and material used to achieve such objectives.

Technology development. The creation of new technology or the use and application of existing technology to promote the development and commercialization of new products, new processes, and new services that can be produced or provided in rural areas.

Urbanized area. An area immediately adjacent to a city having a population of 50,000 or more which, for general social and economic purposes, constitutes a single community and has a boundary contiguous with that of the city. Such community may be incorporated or unincorporated to extend from the contiguous boundaries to recognizable open country, less densely settled areas, or natural boundaries such as forests or water. Minor open spaces such as airports, industrial sites, recreational facilities, or public parks shall be disregarded. Outer

boundaries of an incorporated community extend at least to its legal boundaries. Cities which may have a contiguous border with another city, but are located across a river from such city, are recognized as a separate community and are not otherwise considered a part of an urbanized or urbanizing area, as defined in this section, are not in a nonrural area.

Urbanizing area. A community which is not now, or within the foreseeable future not likely to be, clearly separate from and independent of a city of 50,000 or more population and its immediately adjacent urbanized areas. A community is considered "separate from" when it is separated from the city and its immediately adjacent urbanized area by open country, less densely settled areas, or natural barriers such as forests or water. Minor open spaces such as airports, industrial sites, recreational facilities, or public parks shall be disregarded. A community is considered "independent of" when its social and economic structure (e.g. government; educational, health, and recreational facilities; and business, industry, tax base, and employment opportunities) is not primarily dependent on the city and its immediately adjacent urbanized areas.

§ 4284.505 Applicant eligibility.

(a) Grants may be made to public bodies or nonprofit institutions.

(b) Grants may be made for technology and cooperative development in "rural areas." In determining whether an area is rural, the Agency will determine whether the area is urbanized or urbanizing and then the population density per square mile. All such density determinations will be made on the basis of minor civil division or census county division as used by the Bureau of the Census. In making the density calculations, large nonresidential tracts devoted to urban land uses such as railroad yards, airports, industrial sites, parks, golf courses, and cemeteries or land set aside for such purposes will be excluded.

(c) An outstanding judgement obtained against an applicant by the United States in a Federal Court (other than in the United States Tax Court), which has been recorded, shall cause

the applicant to be ineligible to receive any grant or loan until the judgement is paid in full or otherwise satisfied. RBS grant funds may not be used to satisfy the judgement.

§§ 4284.506—4284.514 [Reserved]

§ 4284.515 Grant purposes.

Grant funds may be used to pay up to 75 percent of the costs for establishing or operating centers for rural technology or cooperative development. Applicant's contribution may be in cash or third party in-kind contribution in accordance with parts 3015, 3016 and 3019 of this title and must be from nonfederal funds except that a loan from another federal source can be used for the applicant's contribution. Grant funds may be used for, but are not limited to, the following purposes:

(a) Technology research, investigations, and basic feasibility studies in any field or discipline for the purpose of generating principles, facts, technical knowledge, new technology, or other information that may be useful to rural industries, cooperatives, agribusinesses, and other persons or entities in rural areas served by such centers in the development and commercialization of new products, processes, or services.

(b) The collection, interpretation, and dissemination of principles, facts, technical knowledge, new technology, or other information that may be useful to rural industries, cooperatives, agribusinesses, and other persons or entities in rural areas served by the center in the development and commercialization of new products, processes, or services.

(c) Providing training and instruction for individuals residing in rural areas served by the center with respect to the development (through technological innovation, cooperative development, and adaptation of existing technology) and commercialization of new products, processes, or services.

(d) Providing loans and grants to individuals, small businesses and cooperatives in rural areas for purposes of generating, evaluating, developing and commercializing new products, processes, or services.

(e) Providing technical assistance and advisory services to individuals, small businesses, cooperatives, and industries in rural areas served by the center for purposes of developing and commercializing new products, processes, or services.

(f) Providing research and support to individuals, small businesses, cooperatives, and industries in rural areas served by the center for purposes of developing new agricultural enterprises to add value to on-farm production through processing or marketing.

(g) Paying up to 75 percent of the administrative costs of the applicant in carrying out its projects.

(h) Equipment and materials necessary to carry out other eligible grant purposes under this section.

§ 4284.516 Ineligible grant purposes.

Grant funds may not be used to:

(a) Pay more than 75 percent of project costs.

(b) Pay more than 75 percent of administrative costs.

(c) Duplicate current services or replace or substitute support previously provided.

(d) Pay costs of preparing the application package for funding under this program.

(e) Pay costs incurred prior to the effective date of the grant made under this subpart.

(f) Pay for building construction or the purchase of real estate or vehicles; improving or renovation of office space; or repair or maintenance of privately-owned property.

(g) Fund political activities.

(h) Pay for assistance to any private business enterprise which does not have at least 51 percent ownership by those who are either citizens of the United States or reside in the United States after being legally admitted for permanent residence.

§§ 4284.517–4284.526 [Reserved]

§ 4284.527 Other considerations.

(a) *Civil rights compliance requirements.* All grants made under this subpart are subject to the requirements of title VI of the Civil Rights Act of 1964 which prohibits discrimination on the basis of race, color, and national origin as out-

lined in subpart E of part 1901 of this title. In addition, the grants made under this subpart are subject to the requirements of section 504 of the Rehabilitation Act of 1973, as amended, which prohibits discrimination on the basis of handicap; the requirements of the Age Discrimination Act of 1975 which prohibits discrimination on the basis of age; and title III of the Americans with Disabilities Act, Pub. L. 101–336, which prohibits discrimination on the basis of disability by private entities in places of public accommodations.

(b) *Environmental requirements.*—(1) *General applicability.* Unless specifically modified by this section, the requirements of subpart G of part 1940 of this title apply to this subpart. For example, the Agency's general and specific environmental policies contained in §§ 1940.303 and 1940.304 of subpart G of part 1940 of this title must be met. Although the purpose of the grant program established by this subpart is to improve business, industry, and employment in rural areas, this purpose is to be achieved, to the extent practicable, without adversely affecting important environmental resources of rural areas such as important farmland and forest lands, prime rangelands, wetland, and flood plains. Prospective recipients of grants, therefore, must consider the potential environmental impacts of their applications at the earliest planning stages and develop plans and projects that minimize the potential to adversely impact on the environment.

(2) *Technical assistance.* An application for a technical assistance project is generally excluded from the environmental review process by § 1940.333 of subpart G of part 1940 of this title. However, as further specified in that section, the grantee of a technical assistance grant, in the process of providing technical assistance, must consider and generally document within their plans the potential environmental impacts of the plan and recommendations provided to the recipient of the technical assistance.

(3) *Applications for grants to provide financial assistance to third-party recipients.* As part of the preapplication, the applicant must provide a complete

Form FmHA 1940-20, "Request for Environmental Information," for each project specifically identified in its plan to provide financial assistance to third parties who will undertake eligible projects with such assistance. The Agency will review the preapplication, supporting materials, and any required Forms FmHA 1940-20 and initiate an appropriate environmental review for the preapplication. This assessment will focus on the potential cumulative impacts of the projects as well as any environmental concerns or problems that are associated with individual projects that can be identified at this time from the information submitted. Because the Agency's approval of this type of grant application does not constitute a commitment to the use of grant funds for any identified third-party projects (see § 4284.541 of this subpart), no public notification requirements will apply to the preapplication. After the grant is approved, each third-party project to be assisted under the grant will undergo the applicable environmental review and public notification requirements in subpart G of part 1940 of this title prior to the Agency providing its consent to the grantee to assist the third-party project. If the preapplication reflects only one specific project which is specifically identified as the third-party recipient for financial assistance, the Agency may perform the appropriate environmental assessment with no public notification. However, the applicant must be advised that if the recipient or project changes after the grant is approved, the project to be assisted under the grant will undergo the applicable environmental review and public notification requirements.

(c) *Government wide debarment and suspension (non-procurement) and requirements for drug-free workplace.* Persons who are disbarred or suspended are excluded from federal assistance and benefits including grants under this subpart. Grantees must certify that they will provide a drug free workplace. See part 3017 of this title and FmHA Instruction 1940-M (available in any RECD State Office) for further guidance.

(d) *Restrictions on lobbying.* All grants must comply with the lobbying restrictions set forth in part 3018 of this title.

(e) *Excess capacity or transfer of employment.* (1) If a proposed grant is for more than \$1 million and will increase direct employment by more than 50 employees, the applicant will be requested to provide written support for an Agency determination that the proposal will not result in a project which is calculated to, or likely to, result in:

(i) The transfer of any employment or business activity from one area to another (this limitation will not prohibit assistance for the expansion of an existing business entity through the establishment of a new branch, affiliate, or subsidiary of such entity if the expansion will not result in an increase in the unemployment in the area of original location or in any other area where such entity conducts business operations, or

(ii) An increase in the production of goods, materials, or commodities or the availability of services or facilities in the area when there is not sufficient demand for such goods, materials, commodities, services, or facilities to employ the efficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon existing competitive enterprises in the area. The applicant's written support will consist of a resolution from the applicant and Form FmHA 449-22, "Certification of Non-Relocation and Market and Capacity Information Report," from each existing and future occupant of the site. The applicant may use Guide 2 of subpart G of part 1942 of this title (available in any RECD State Office) as an example in preparing the resolution. Future occupants of the site must be certified by the Department of Labor (DOL) as outlined in paragraph (e)(3) of this section for a period of 3 years after the initial certification by DOL.

(2) [Reserved]

(3) Grants shall not be made if the Secretary of Labor certifies within 30 days after the matter has been submitted by the Secretary of Agriculture that the provisions of paragraph (e) (1)

of this section have not been met. Information for obtaining this certification will be submitted, in writing, by the applicant to RECD. Grant approval may be given and funds may be obligated, subject to the DOL certification being received, provided RBS has made its own separate determinations of paragraphs (e)(1) (i) and (ii) of this section when applicable.

(f) *Management assistance.* Grant recipients will be supervised, as necessary, to ensure that projects are completed in accordance with approved plans and specifications and that funds are expended for approved purposes. Grants made under this subpart will be administered under, and are subject to, parts 3015, 3016, 3017 and 3019 of this title, as appropriate, and established RBS guidelines.

(g) *National Historic Preservation Act of 1966.* All projects will be in compliance with the National Historic Preservation Act of 1966 in accordance with subpart F of part 1901 of this title.

(h) *Uniform Relocation Assistance and Real Property Acquisition Policies Act.* All projects must comply with the requirements set forth in part 21 of this title.

(i) *Flood plains and wetlands.* All projects must comply with Executive Order 11988, "Flood Plain Management," and Executive Order 11990, "Protection of Wetlands."

(j) *Flood or mudslide hazard area precautions.* If the grantee financed project is in a flood or mudslide area, flood or mudslide insurance must be provided.

(k) *Termination of Federal requirements.* Once the grantee has provided assistance with project loans in an amount equal to the grant provided by RBS, the requirements imposed on the grantee shall not be applicable to any new projects thereafter financed from the RTCDG funds. Such new projects shall not be considered as being derived from federal funds. The purposes of such new projects, however, shall be consistent with these regulations.

(l) *Intergovernmental review.* Grant projects are subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with state and local officials. A loan fund established in whole, or in part, with grant funds will also be considered a

project for the purpose of intergovernmental review as well as the specific projects funded with grant funds from the RTCDG funds. For each project to be assisted with a grant under this subpart and which the state has elected to review under their intergovernmental review process, the state point of contact must be notified. Notification, in the form of a project description, can be initiated by the grantee. Any comments from the state must be included with the grantee's request to use RBS grant funds for the specific project. Prior to RBS's decision on the request, compliance with requirements of intergovernmental consultation must be demonstrated for each project. These requirements should be completed in accordance with "Intergovernmental Review of Department of Agriculture Programs and Activities," subpart V of part 3015 of this title (see FmHA Instruction 1940-J, available in any RECD State Office).

§ 4284.528 Application processing.

(a) *Preapplications.* (1) Applicants will file an original and one copy of Standard Form (SF)-424.1, "Application for Federal Assistance (For Non-construction)," with the appropriate RECD State Office. This form is available in any RECD State Office.

(2) All preapplications shall be accompanied by:

(i) Evidence of applicant's legal existence and authority to perform the proposed activities under the grant.

(ii) Latest financial information to show the organization's financial capacity to carry out the proposed work. At a minimum, the information should include a balance sheet and an income statement. A current audit report is preferred where one is reasonably obtainable.

(iii) Estimated breakdown of total costs, including costs to be funded by the applicant as well as other sources. Other sources should be identified. Certification must be provided from the applicant that its matching share to the project is available and will be used for the project. The matching share must meet the requirements of parts 3015, 3016 and 3019 of this title. Certifications from an authorized representative of each source of funds must be

provided indicating that funds are available and will be used for the proposed project.

(iv) Budget and description of the accounting system in place or proposed.

(v) Area to be served, identifying each government unit, i.e., town, county, etc., if affected by the proposed project and evidence of support and concurrence in the proposed project from the affected local governmental bodies as evidenced by a resolution or a written statement from the chief elected local official.

(vi) Evidence that the proposed project will serve or have the potential to serve economically distressed areas supported by established official independent sources of data which are sufficient to verify the extent to which economically distressed conditions exist. (Preference will be given in selecting projects demonstrating their ability to effectively serve rural areas with few rural industries and agribusinesses, high levels of unemployment or underemployment, high rates of outmigration of people, businesses, and industries, or low levels of per capita income).

(vii) A listing of businesses to be assisted.

(viii) Applicant's experience, including experience of key staff members and persons who will be providing the proposed services and managing the project.

(ix) The number of months duration of the project or service and the estimated time it will take from grant approval to beginning of service.

(x) Method and rationale used to select the areas or businesses that will receive the service.

(xi) Brief description of how the work will be performed and whether organizational staff, consultants or contractors will be used.

(xii) Evaluation method to be used by the applicant to determine if objectives of the proposed activity are being accomplished.

(xiii) A brief plan which contains the following provisions and describes how the applicant will meet those provisions:

(A) A provision that substantiates that the applicant will effectively serve rural areas in the United States.

(B) A provision that the primary objective of the applicant will be to improve the economic condition of rural areas by promoting the development (through technological innovation, cooperative development, and adaptation of existing technology) and commercialization of:

(1) New services and products that can be produced or provided in rural areas;

(2) New processes that can be utilized in the production of products in rural areas; and

(3) New enterprises that can add value to on-farm production through processing or marketing.

(C) Copies of the established official independent sources of data need to be included in the plan along with any documentation that more fully explains the date produced, methodology, source, or interpretation of the data.

(D) A description of the activities that the applicant will carry out to accomplish such objective.

(E) A description of the proposed activities to be funded under this subpart.

(F) A description of the contributions that the applicant's proposed activities are likely to make to the improvement of the economic conditions of the rural areas served by the applicant.

(G) Provisions that the applicant, in carrying out its activities, will seek, where appropriate, the advice, participation, expertise, and assistance of representatives of business, industry, educational institutions, the federal government, and state and local governments.

(H) Provisions that the applicant will consult with any college or university administering Extension Service programs and cooperate with such college or university in the coordination of the center's activities and programs.

(I) Provisions that the applicant will take all practicable steps to develop continuing sources of financial support for the center, particularly from sources in the private sector.

(J) Provisions for:

(1) Monitoring and evaluating its activities; and

(2) Accounting for money received and expended by the institution under this subpart.

(K) Provisions that the applicant will provide for the optimal application of technology and cooperative development in rural areas, especially those areas adversely affected by agricultural economic conditions, through the establishment of demonstration projects and subcenters for:

(I) Rural technology development where the technology can be implemented by communities, community colleges, businesses, cooperatives, and other institutions; or

(2) Cooperative development where such development can be implemented by cooperatives to improve local economic conditions.

(xiv) If grant funds are to be used for the purpose of making loans or grants to individuals, small businesses, or cooperatives (ultimate recipients) in rural areas for eligible purposes under this subpart, the preapplication must include the agreement proposed to be used between the applicant and the ultimate recipients which includes the following:

(A) An assurance that the responsibilities of the grantee, as a recipient of grant funds under this subpart, are passed on to the ultimate recipient and the ultimate recipient understands its responsibilities to comply with the requirements set forth in this subpart, including parts 3015, 3016, and 3019 of this title.

(B) Provisions that the ultimate recipient will comply with debarment and suspension requirements contained in part 3017 of this title and will execute Form AD-1048, "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions."

(C) Provisions that the ultimate recipient will execute Forms FmHA 400-1, "Equal Opportunity Agreement," and FmHA 400-4, "Assurance Agreement."

(D) Documentation that the ultimate recipient understands its responsibilities to the applicant.

(E) Documentation that the applicant understands its responsibilities in monitoring the ultimate recipient's activities under the grant and the applicant's plan for such monitoring.

(F) Documentation when other references or sources of information are

used, along with copies if possible, to provide dates, addresses, page numbers and explanations of how interpretations are made to substantiate that such things as economically distressed conditions do exist.

(G) Narrative addressing all items in §4284.540 (a) of this subpart regarding grant selection criteria.

(b) *Applications.* Upon notification that the applicant has been selected for funding, the following will be submitted to the RECD by the applicant:

(1) SF 424.1, "Application for Federal Assistance (for Non-construction)".

(2) Proposed scope of work, detailing the proposed activities to be accomplished and time frames for completion of each activity.

(3) Proposed budget, including source and amount of applicant contribution and any other funding sources for the proposed project.

(4) Other information requested by RECD to make a grant award determination.

(c) *Applicant response.* If the applicant fails to submit the application and related material by the date shown on the notice, RECD may discontinue consideration of the preapplication.

§§4284.529—4284.539 [Reserved]

§ 4284.540 Grant selection criteria.

Grants will be awarded under this subpart on a competitive basis. The priorities described in this paragraph will be used by RBS to rate preapplications. Preference will be given to applicants demonstrating factors in paragraphs (a) (4) and (5) of this section. RBS' review of preapplications will include the complete preapplication package submitted to the RECD State Office. Points will be distributed according to ranking as compared with other preapplications on hand. Recognizing that a wide variety of individual strategies and approaches may be used to promote economic development and that specific needs vary according to geographic region and over time, the Agency has determined to publish an informational notice annually in the FEDERAL REGISTER which will contain those objective strategies or approaches, consistent with this subpart with weighted

priorities, that the Agency wishes to emphasize during that year. The notice will establish the period of time that the Agency will accept preapplications for consideration of that fiscal year's funding.

(a) The selection criteria are as follows:

(1) Likelihood of project being effective in achieving one or more of the following: technological innovation, adaptation of existing technology, co-operative development, commercialization of new services and products, and promotion of new processes and enterprises.

(2) Innovativeness or originality of project in addressing authorized grant purposes.

(3) Experience, organizational skills, and background that are needed for applicant to successfully carry out project.

(4) Transferability or demonstration value of project to help rural areas outside of project area.

(5) Ability of project to contribute to the improvement of economic conditions in rural areas with one or more of the following: few rural industries and agribusinesses; high levels of unemployment or underemployment; high rates of outmigration of people, businesses, industries; and low levels of per capita income.

(6) The Administrator may award discretionary points to focus on geographical distribution, interagency cooperation or other appropriate factors.

(b) Each preapplication for assistance will be carefully reviewed in accordance with the priorities established in this section. A priority rating will be assigned to each preapplication. Preapplications selected for funding will be based on the priority rating assigned each preapplication and the total funds available. All preapplications submitted for funding should contain sufficient information to permit RBS to complete a thorough priority rating.

§ 4284.541 Grant approval, fund obligation, grant closing, and third-party financial assistance.

The grantee will execute all documents required by the Agency to make a grant under this subpart.

§§ 4284.542—4284.556 [Reserved]

§ 4284.557 Fund disbursement.

Grants will be disbursed as follows:

(a) An SF-270, "Request for Advance or Reimbursement," will be completed by the applicant and submitted to RECD not more frequently than monthly. The grantee will only be reimbursed for allowable costs incurred.

(b) [Reserved]

(c) The grantee's share in the cost of the project will be disbursed in advance of grant funds or on a pro-rata distribution basis with grant funds during the disbursement period. The grantee may not provide its contribution at the end of the grant period.

§ 4284.558 Reporting.

An SF-269, "Financial Status Report," and a project performance activity report will be required of all grantees on a quarterly basis. A final project performance report will be required with the last SF-269. The final report may serve as the last quarterly report. The final report must include a final evaluation of the project. Grantees shall constantly monitor performance to ensure that time schedules are being met, projected work by time periods is being accomplished, and other performance objectives are being achieved. Grantees are to submit an original of each report to RECD. The project performance reports shall include, but not be limited to, the following:

(a) A comparison of actual accomplishments to the objectives established for that period;

(b) Reasons why established objectives (if any) were not met;

(c) Problems, delays, or adverse conditions which will affect attainment of overall project objectives, prevent meeting time schedules or objectives, or preclude the attainment of particular project work elements during established time periods. This disclosure shall be accompanied by a statement of the action taken or planned to resolve the situation; and

(d) Objectives and timetable established for the next reporting period.

§§ 4284.559—4284.570 [Reserved]

§ 4284.571 Audit requirements.

The grantee will provide an audit report in accordance with § 1942.17 of subpart A of part 1942 of this title. The audit requirements only apply to the years in which grant funds are received. Audits must be prepared in accordance with general accounting principles and standards using the publication, "Standards for Audit of Governmental Organizations, Programs, Activities and Functions."

§ 4284.572 Grant servicing.

Grants will be serviced in accordance with subpart E of part 1951 of this title.

§ 4284.573 Programmatic changes.

The grantee shall obtain prior approval for any change to the scope or objectives of the approved project. Failure to obtain prior approval of changes to the scope or budget can result in suspension or termination of grant funds.

§ 4284.574 Subsequent grants.

Subsequent grants will be processed in accordance with the requirements set forth in this subpart.

§ 4284.575 Grant suspension, termination, and cancellation.

Grants may be canceled by RBS by written notice. Grants may be suspended or terminated for cause or convenience in accordance with parts 3015, 3016, and 3019 of this title.

§§ 4284.576—4284.586 [Reserved]

§ 4284.587 Exception authority.

The Administrator may, in individual cases, make an exception to any requirement or provision of this subpart which is not inconsistent with the authorizing statute, an applicable law, or a decision of the Comptroller General, if the Administrator determines that application of the requirement or provision would adversely affect the Government's financial interest and shows how the adverse impact will be eliminated or minimized if the exception is made.

§§ 4284.588—4284.599 [Reserved]

§ 4284.600 OMB control number.

The reporting and record keeping requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) and have been assigned OMB control number 0570-0006. Public reporting burden for this collection of information is estimated to vary from 30 minutes to 8 hours per response, with an average of 1.85 hours per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Department of Agriculture, Clearance Officer, OIRM, AG Box 7630, Washington, DC 20250, and to the Office of Management and Budget, Paperwork Reduction Project (OMB#0570-0006), Washington, DC 20503.

PART 4285—COOPERATIVE AGREEMENTS

Subpart A—Federal-State Research on Cooperatives Program

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